

Hawaiian Gazette.

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HONOLULU, H. T., FRIDAY, MARCH 14, 1902—SEMI-WEEKLY.

WHOLE N. 2867.

HUMPHREYS FINDS SMITH GUILTY OF CONTEMPT

Gear at Once Imposes Sentence of Thirty Days Imprisonment as Punishment.

Writ of Habeas Corpus is Granted Later on by Chief Justice Frear and Editor Is Released.

WALTER G. SMITH, editor of the Pacific Commercial Advertiser, was adjudged guilty of contempt of court by Judge Humphreys yesterday, and by Judge Gear sentenced to thirty days' imprisonment at Oahu Prison. Judge Robinson also sat upon the bench, and according to Humphreys, concurred in the findings.

Mr. Smith was detained in the court room until after 3 o'clock in custody of a bailiff, then the long delayed mittimus was served and he was taken to the police station, where half an hour later he was released upon a writ of habeas corpus. The writ which was issued by Chief Justice Frear, was made returnable on the first day of the next session of the Supreme Court, which is Monday, April 21st, adjournment having been taken yesterday for the term.

The court room and corridors were crowded when court convened yesterday morning. The time for the return was fixed at 9 o'clock, but it was fifteen minutes later before the three judges marched into the room, Humphreys in the lead, and took seats upon the bench.

Judge Gear opened the ball, by asking if any return had been made. W. O. Smith, appearing for the respondent, replied that W. G. Smith was in court, ready to put in an appearance. Davis stated that he would like to introduce some evidence, when Mr. Smith said that he first wished to present a motion to discharge the rule which he read as follows:

MOTION TO DISCHARGE RULE TO SHOW CAUSE.

Now comes Walter G. Smith, the respondent in the above entitled contempt proceedings, and moves the court that the rule to show cause why the said respondent should not be punished for contempt herein, be discharged, upon the following grounds:

I.—That the act complained of in the motion upon which said rule to show cause is based, is not, in law, a contempt of court for which the court has power to punish this respondent.

II.—That this court cannot legally punish as for contempt a publication of the nature of that herein complained of, made in a newspaper and not done in the immediate presence of the court.

III.—That the publication of a cartoon or picture, such as that complained of, done without knowledge by the person so publishing the same that a case pending before the court would or might be prejudiced thereby, or without knowledge that any such case was pending, is not a contempt of court and cannot be punished as such.

IV.—Under the statutes of the Territory of Hawaii, no publication out of court in relation to the court or to any of its members amounts to a contempt, and the same cannot be punished as such.

Honolulu, March 13, 1902.

WALTER G. SMITH.

Davis here again asked for leave to introduce evidence, which Judge Gear refused to allow, stating that the motion was in the nature of a demurral, and must first be disposed of. He remarked further that the third paragraph was an improper pleading, to which Mr. Smith assented. Judge Robinson then said that the court would give leave to amend by striking out that paragraph, which was accordingly done.

Judge Gear then announced "With that part stricken out, we are all of the opinion that the motion will be denied."

Mr. Smith thereupon presented the return, reading as follows:

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT, TERRITORY OF HAWAII.

February Term, 1902.

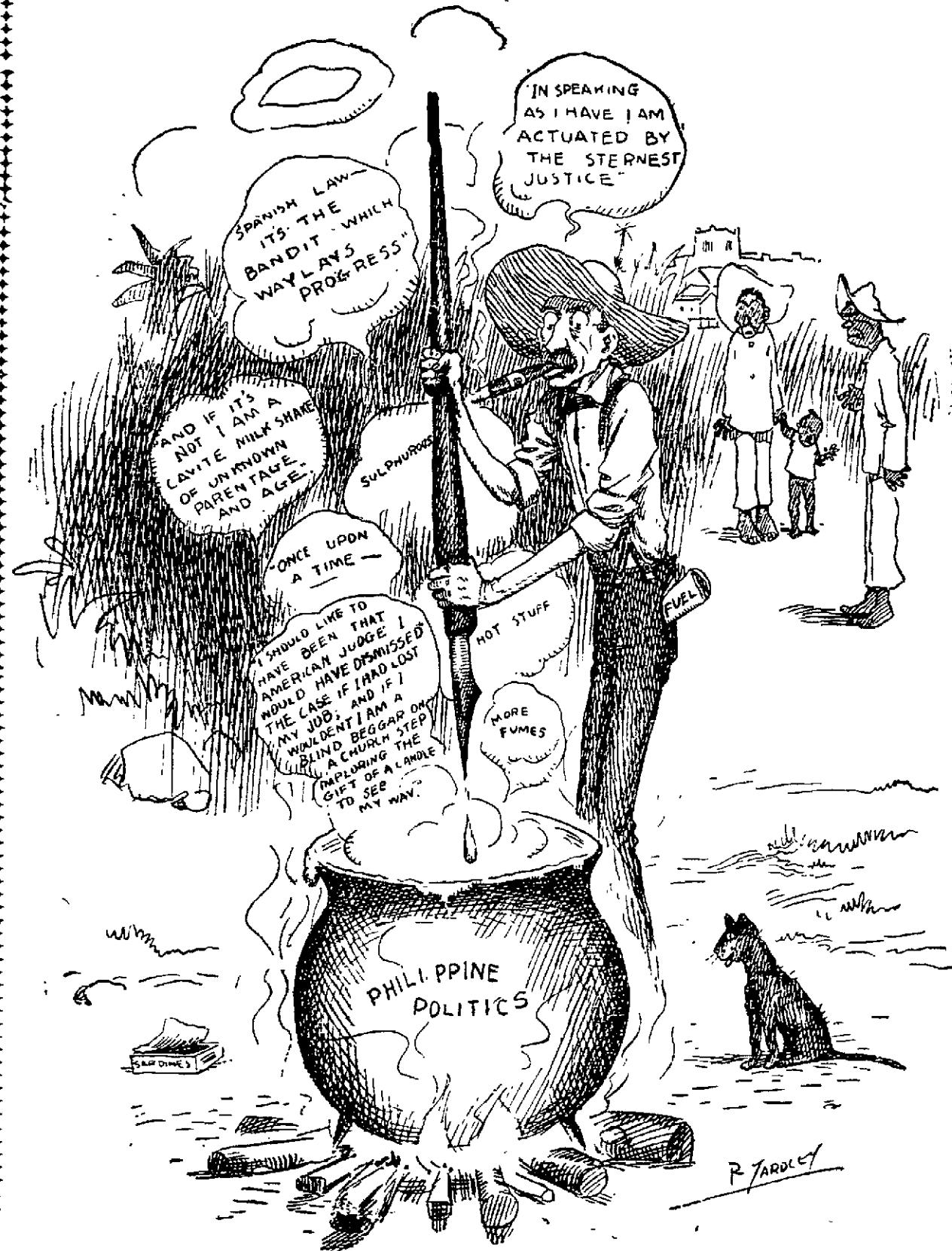
Territory of Hawaii vs. William McCarthy, in Contempt of Walter G. Smith.

RETURN AND ANSWER OF WAILUKU TERR. G. SMITH.

Walter G. Smith, the respondent in the above entitled contempt proceedings, for return and answer to the citation and order herein, and to purge the contempt herein alleged, says:

"That he is the editor of the newspaper called 'The Pacific Commercial Advertiser,' printed and published in Honolulu, in which was printed the

THE VOLCANO AT WORK



During the interruption while Colonel to throw the community into disorder, the court, or detracting from its power, was looking for his record, Attorney Smith arose and asked leave to move, he said, was through an appeal icon to be contempt, and that the return was no intention of showing disrespect ought to be treated with respect, the court was not without proper remedy, whether I like the judge or not. If it sought to exercise it, Humphreys interrupted to say that this was not constructive contempt.

Mr. Smith replied that the judges had the same remedy as did the President or governor, and that the court's authority to punish for contempt was well sifted by this time, though he is not an angel." (Laughter.)

Davis closed with a long harangue limited in the Hawaiian statutes to officers were posted at different points in the neighborhood. Officers were also stationed all over town at

afterpiece, a few shafts aimed at the that did other officials or citizens attorney general.

Judge Humphreys stated that the section of the Hawaiian statute referring to constructive contempt was null and void, and not being a law could not have been carried over and re-enacted by Congress. He said that the section was unconstitutional and consequently there could be no constructive contempt.

Mr. Lewis followed with a brief argument, confined almost wholly to the legal aspect of the case. He said that they relied upon two simple propositions—that it was not within the power of the court to punish for con-

structive contempt, that the court was limited by the laws promulgated by the legislature of Hawaii, which laws had received the sanction of Congress, and

Mr. Lewis replied that it was a question of fact as to whether or not the law had been declared unconstitutional, and said that he knew of no decision in that effect.

Humphreys replied that being unconstitutional it was void at the time of its enactment.

Mr. Lewis did not believe a law could be declared unconstitutional except by action on the part of a court.

Humphreys then said that there were no Circuit Courts at the time of this act, and it referred only to the Supreme Court or District Courts. This

was a matter of history, and W. O. Smith replied that there had been Circuit Courts in Hawaii since 1859. The court appeared satisfied with the statement and sitting then began his argument. He referred to the cartoon as blasphemous and said that all the facts had been admitted. He said that questions of law were not involved in the case at all, and concluded by saying that it was actual and not constructive contempt. At this point the court took a recess for fifteen minutes.

The court returned to the room in about twenty minutes. Judge Humphreys leading the way with an armful of law books, Humphreys began immediately upon his ruling. He said,

"The affidavit filed in this case seems to set out pretty fully all the pertinent material and relevant facts. The charge of contempt whether it be held to be a direct or indirect contempt, a constructive contempt or a contempt committed in the face of the court, is charged technically in apt and proper words."

On behalf of respondent it is contended that this court is without the power which ordinarily inheres in all courts of record to protect themselves and to prevent the obstruction, embarrassment and hindrance of the due and orderly administration of justice. This contention is made under the act of

1890.

Mr. Lewis in conclusion said that the answer of Mr. Smith was conclusive, and Judge Gear stated that he was uncontradicted, and if he did not

have a reference to the "disgraceful, ill-told truth he was liable to indictment for perjury."

W. O. Smith said that as a member of the bar he wished to disclaim any

those who egged him on, in an attempt intention of attacking the authority of

DESPERATE CONVICT ESCAPES

Woods, the Negro Life Termer, Is at Large.

LEAVES GANG AT KEWALO QUARRY

Armed Posse Scours Country All Night Long—Stole a Cane Knife.

WOODY, the desperate negro sentenced last year to life imprisonment for breaking into the Spreckelsville store on Maui and decamping with the safe containing \$1000, escaped from the gang of convicts working in the Kewalo quarry, behind Punchbowl, yesterday afternoon, and at 2 o'clock this morning was still at large.

There were about 50 prisoners in the gang, with three guards. About 3:30 o'clock Woods asked to be allowed to get a drink of water, and permission being granted, proceeded to a small shed some distance from where he was working, in which the water was kept.

This seems to have been the last seen of him. After a while his absence was

noticed, and the prisoners were taken back to Oahu Jail as quickly as possible, and a telephone message sent to the police station telling of Woods' escape. At once every available man was collected and Deputy Sheriff Chillingworth and a posse set out for the quarry.

Until sundown the country in all directions was scoured, but only one trace of the fugitive was found. Not far from the quarry is a small house, inhabited by an old native woman. Woods visited the place, and finding no one at home, broke into it and ransacked the premises. When the officers arrived at the house they found the floor covered with clothing. The tenant of the house said that a dress and a cane knife had been taken away.

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THE QUEEN OWNS SAND

Titles Extend to Low Water Mark.

(From Wednesday's Daily.)

Neither the Territory nor the United States has title to the lands of Hawaii between high water and low water mark, if it had been conveyed to other parties by persons holding title prior to annexation, is the ruling of the Supreme Court in the case of Territory vs. Liliuokalani and John H. Wilson, as made yesterday. The points decided are of much interest, in that there are similar cases affected.

The Circuit Court, Judge Humphreys, is reversed, the opinion having been written by Judge Gear, acting Justice, and concurred in by Justice Galbraith. Justice Perry was also disqualified, and his place had been filled by Thomas Fitch, who also filed a separate concurring opinion, in which he went into the question more fully.

The case at point involved the right of John H. Wilson, who held certain lands at Waikiki, by leases from the ex-queen, to remove sand at low water point. Judge Humphreys sustained the attorney general, overruling a demurrer, and granting an injunction restraining the removal of the sand. His decision is reversed by the Supreme Court, and he is directed to sustain the demurrer and dismiss the bill of complaint.

The syllabus says:

A royal patent issued in 1866 by Kamehameha V to land covered by the mahele of 1848, which describes the seaward boundary line as "along the sea at low water mark" conveys the land lying between high and low water mark.

The resolution of the Privy Council of August 29, 1850, did not have the effect of a law, as the Privy Council had no authority to enact laws.

The words "koe nae ke kuleana o na kanaka," or in their English equivalent "reserving, however, the people's kuleana therein," mean a reservation of the house lots, taro patches or gardens of natives within the boundaries of the land.

The sole question upon which the case hinged, according to the Supreme Court, was whether Kamehameha V had the power to convey the land between high and low water mark. On this point the court says:

"While it is claimed that Kamehameha V was a constitutional monarch, it seems that he was little embarrassed by constitutional restrictions. By his own authority he abrogated the constitution of the kingdom that was adopted by Kamehameha III in 1852, and promulgated a new one to his own liking, August 24, 1864. Such a monarch certainly possessed the usual powers of sovereignty conceded to constitutional rulers, and had, the right to convey the land between high and low water mark, to the defendant's grantor."

The court further holds that the Privy Council had no right to enact laws and that the legislative power was in the House of Nobles and the House of Representatives. In concluding its opinion the court says:

The Attorney General further contends that as the royal patent and award contained the words "koe nae ke kuleana o na kanaka," this referred to the people all the rights below high water mark and not expressly recognized as private rights, and that this reserved all rights excepting the rights to fish and the right to remove coral rock. He states that the King was "authorized by the law and by the land commission award to issue the royal patent reserving, however, the people's kuleana therein. The people's kuleana was the land between high water mark and the low water mark, which Kamehameha had no authority to alienate."

By reference to the statutes of 1745-46, vol. 2, pages 81-94, it will be seen that the grants are to be made "subject to the private rights of the tenants, if there be any on the land," and on page 85, in a definite statement of the public rights to which the grant is subject, showing that the words "koe nae ke kuleana o na kanaka," have no reference to such public rights, but can only have reference to the house lots and taro patches and gardens of tenants living on land within the boundaries of the larger tract granted.

We are of the opinion that the words quoted have well understood meaning as used in conveyances within this Territory, and that they, as well as the English equivalent "reserving, however, the people's kuleana therein," mean the reservation of the house lots and taro patches or gardens of natives lying within the boundaries of the tract granted.

The order overruling the demurrer of defendants is reversed, and the cause remanded with directions to the trial court to sustain the demurrer and order the bill dismissed.

In the concurring opinion of Mr. Fitch, he says that the right of bathing is not a right recognized by the government, and that there could be no obstruction of navigation by the allowance of such a privilege. He further holds that where lines have not been established by the Secretary of War, the riparian owners' right to re-claim extends to the line of practical navigation.

Internal Revenue Collector Roy Chamberlain began his first prosecution in the Territory yesterday for violation of the revenue laws. Manuel Castanha and his son Frank had been taken into custody by Sheriff Chillingworth on a charge of illicit distilling, and were brought before Judge Dickey for trial.

The case there was, however, no trial, a new charge having been preferred in the meantime before Commissioner Gill, a charge of violating the United States revenue laws. Both men appeared yesterday before Commissioner Gill, and their trial was set for Thursday. Bond was fixed in each case at \$1000.

Though this is the first criminal prosecution by Internal revenue officials, it is by no means the first violation of the law. In past cases there has been a quiet settlement out of court by the payment of the required license and the penalty imposed by statute. The collector has discretionary power in the settlement of violations of the liquor laws. In other cases it generally happened that the defendants had fulfilled the requirements of the United States laws and taken out a license, while in some the evidence was thought to be insufficient for a successful prosecution. It is reported that there are four or five times the number of United States licenses held in the Territory than Territorial licenses. At the Internal Revenue office yesterday it was stated that the arrest meant no change of policy on the part of the department, but that the Federal authorities were always ready to prosecute violators of the internal revenue laws when the evidence was deemed sufficient.

M. E. Lennon, the attorney who served a term in Oahu prison for gross cheat, was disbarred from further practice in the Territorial courts by the Supreme Court yesterday. Attorney General Dole went on the stand and testified to an appeal made to him by Mr. Lennon to save him from disgrace, and promising that he intended to return to the States and become a good citizen of the community, and try to live down his record here. He asked whether or not it would be thought dis-courteous by the court if he failed to appear, and upon being told that it would not, said he would make no defense. George Sea testified to the service made upon the defendant, and Clerk George Lucas and Police Clerk Zablan testified as to the record in the criminal case. Chief Justice Frear then stated that the motion for disbarment would be granted, and the name of Lennon was ordered stricken from the file of practitioners in the Territory. The case of Lili vs. Carthy was argued in the Supreme Court during the day.

Formal notice to advance the Kamalo case on the calendar to March 14th was given yesterday by plaintiffs. Defendants have given notice of motion to strike the cause from the calendar, on the ground that the clerk had not been served with the notice. The matter will be argued in the Supreme Court today.

Deputy Attorney General Cathcart has filed a motion to strike out the bill of exceptions in the case of Territory vs. Ah Moon, on the ground that no notice of the same had been given the Territory.

Chief Justice Frear gave notice yesterday that the Supreme Court would adjourn Thursday for the term.

Another new point was raised before Judge Robinson yesterday in the trial of the case of Territory vs. Chas. Malala, charged with assault.

Judge Kauikou, the defendant's attorney, moved to quash the indictment on the ground that the grand jury had no right to consider a misdemeanor, as this is, and which is properly triable before a District magistrate. Mr. Mathewman contended that the grand jury was an arm of the Circuit Court, and that the Circuit Court had the same jurisdiction as did the District magistrate, consequently the indictment was valid. Mr. Douthit argued that Judge Humphreys had held in a similar case that the grand jury had power to hear misdemeanors, to which statement Mr. Kauikou hotly objected as being a highly improper attempt to influence the Court's opinion. Judge Robinson took the matter under advisement, holding that while he at first took the defendant's view of the case, he would postpone his decision until this afternoon. As the defendant has three more charges of a more serious character pending against him, his release would be of little value.

TROUBLES OF JURORS.

Crimp McCarthy is being given a second hearing for the assault he is alleged to have committed upon Katie Akai. Extreme difficulty was met in securing a jury, as the twelve men who heard the first case are disqualified, and many of the remaining members of the panel had already heard considerable of the case.

During the examination of jurors, Judge Gear held that sleepiness is not a crime, and angered Attorney Bitting greatly thereby. When the name of G. A. Long was called the loungers at the court room door burst into laughter, and the cause for which was not disclosed until Long came into the court room rubbing his eyes. He had been sleeping on a couch just outside the court room, but Bitting thought it was something worse.

SENATOR IS FREED FROM ALIMONY.

Judge Humphreys filed a written decision yesterday denying the motion for a new trial in the divorce case of Susan Kahili vs. Senator Kahili, but setting aside the alimony of \$1000 previously allowed the wife. The court holds that the wife did contribute to the personal expenses of the household. "This is by no means unusual," says the court. "When the income of the husband is not sufficient to maintain the wife in the style in which she wishes to live, and she makes a contribution to the common fund, she does not thereby acquire the status of a creditor of the husband."

The court further holds that the income of the husband is shown to be about \$300 less than that of the wife, and therefore in view of all the circumstances, the decree is modified, and the award of \$1000 alimony to the wife is set aside.

COURT NOTES

Appeals were filed in the District Court yesterday in the following cases: Harris Bros. & Co. vs. Tam Pong, Lope Agape vs. Gus Cordes, Kong Shui vs. T. J. Fitzpatrick, and Lewers & Cooke vs. J. W. Redhouse.

A. S. Mahaulu was yesterday licensed by Judge Humphreys to practice in the District Courts of the Territory.

Pursuing his former policy in regard to trust investments in plantation Judge Humphreys yesterday morning sent out demands by letter for reports from the trustees of the Bishop Museum, the C. R. Bishop trust, and the estate of B. P. Bishop. The following is a copy of the form of letters.

"The Circuit Court, Honolulu, March 11, 1902.

"Messrs. S. H. Dole, W. F. Allen, W. C. Green, W. H. Johnson, S. M. Damon, J. C. Cowan, and A. W. Carter, trustees of the Bernice Pauahi Bishop Museum, Honolulu, T. H.:

"Gentlemen.—The records of this court show that your last account as trustees of what is known as the Bernice Pauahi Bishop Museum Trust was filled in this court on December 18th, 1901, covering the year ending with October 12th, 1900. You are hereby directed to file your account as trustee of said trust for the year ending October 12th, 1901, immediately.

"A. S. HUMPHREYS,

"First Judge."

The annual accounts of the trustees under the will of the late Bernice P. Bishop were filed for the year ending June 30th, yesterday afternoon, showing the total receipts for the year to have been \$285,040.88 and the disbursements \$255,907.48, leaving a balance for the year of \$29,133.40. The report shows investments in the bonds looked down upon by Humphreys.

Accompanying the financial statement are reports of the various principals of the Kamehameha schools, which were endowed by the deceased.

The trustees report having continued filling in the swamp lands of the estate and speak also of the contemplated erection of a wharf at Kakaako. A report is made also of fencing lands for the preservation of the forests. Forest fires have damaged the properties of the estate at Kohala, Hawaii. There is a report also of the investigations of Engineer Tuttle into the water conditions of Walipio and Honokone valleys on Hawaii. The cost of running the Kamehameha Schools for the year was \$118,250, slightly in excess of the amount spent the previous year. Of this amount \$37,178 is credited to permanent improvements. The list of investments of the estate shows \$6000 in Oahu Railway bonds and \$41,850 of this amount is in McBryde Sugar Company bonds.

Charles Dyke, principal of the Kamehameha Schools, made a lengthy report upon that school. He speaks of the success of the plan of concentrating the business offices, and says that two hundred dollars a month has been saved by that method. The total registration for the period was 145. The military organization is commended, as well as the work of the band, and the success of the athletic features now introduced is pointed out. The religious part of the education of the boys has not been neglected, and this instruction is also highly commended. The work in the manual training department was highly satisfactory, as it was also in agricultural department. The principal suggests also that the water supply is insufficient, and there is great danger from fire, recommending that electric lights be installed.

Miss Alice Knapp, principal of the preparatory department, submits a carefully prepared report upon that branch of work.

Miss Ida M. Pope, principal of the School for Girls, reports that there is a demand for trained teachers and for nurses among Hawaiian women, and suggests that opportunity should be offered Hawaiian girls to become trained nurses, as some among them have a special aptitude for this work. Larger school equipment is also needed.

An inventory of the estate is filed with the report, showing the property to consist almost exclusively of real estate on every island of the group. There is a cash balance on hand of \$29,133.40 reported.

FITS IN WITH HIS HOME PLACE

Through negotiations which were closed yesterday prior to the departure of the Kinau, the Young Hee Ranch of Maui passed into the possession of W. H. Cornwell. The transaction includes something like 6000 acres of land, there being reserved from sale about 1000 acres of corn and potato lands, which are the best of the arable portions of the estate.

The grazing lands, the timber and all the animals on the property are included in the transaction, and while the price is kept secret, the figures will be close to \$20,000 for the land transferred.

The estate which is added to the ranches of Col. Cornwell adjoins the grazing lands which were under his control, and extends his fields until they adjoin those of the Ulupalakua ranch.

The lands which are embraced in the Young Hee ranch are those of the ahupuaa of Koanolu, and as well one and one-half shares in the Sniffen estate. The major portion of the ranch is fine grazing lands, but there is enough timber on the tract to make that feature of sufficient value to be considered. The lands adjoin the Kihel plantation, and extend up to the mountain, giving all the water necessary for stock which range the place.

The purchase of the Young Hee ranch by Col. Cornwell carries out a plan which has been in his mind for several years. In fact some three years ago Col. Cornwell made a trip to China for the sole purpose of buying the ranch.

He and Young Hee passed on the way when the latter arrived here the ranch was purchased by Gear & Lansing, the price being \$55,000. There were

a number of propositions which the owners tried to put through with reference to this ranch. At one time there was a proposal to form a great ranch, making the Young Hee holding the nucleus, which would embrace the Cornwell ranches, the Ulupalakua, the Kahikinui and the Haleakala estates.

The ranch was managed by Gear & Lansing and passed into the hands of the trustees of the firm last year. The negotiations were carried on by Messrs. Henry Waterhouse & Company for Col. Cornwell, and A. V. Gear and T. F. Lansing went down in the Kinau yesterday, followed by Col. Cornwell in the Claudio, to survey the reserved lands, and to transfer the main portion of the estate later.

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The court further holds that the income of the husband is shown to be about \$300 less than that of the wife, and therefore in view of all the circumstances, the decree is modified, and the award of \$1000 alimony to the wife is set aside.

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SEMI-WEEKLY.

ISSUED TUESDAYS AND FRIDAYS.

WALTER G. SMITH, EDITOR.

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A. W. PEARSON,
Manager

FRIDAY, MARCH 14

Mr. Bryan is building a fine house at Lincoln, Neb. Evidently he expects to stay there.

Irrigation dams would have a hard time standing the strain in a region where seven feet of water falls in six days.

George Carter is in no great hurry, apparently, to reach Washington, and most of his critics here seem to be in no hurry to have him.

The liberty of the press, constitutionally guaranteed, and used in the furtherance of just laws and good government, must and shall be preserved.

The weather this week is as fine as the weather last week was bad. It is remarkable how fast the soil dries out and seems, despite its recent drenching, to invite more moisture.

Lawyer Davis ran at the mouth yesterday over the liberties taken by the press with the courts. For a wonder he made his points without impertinent reference to "one A. Perry," justice of the Supreme Court.

Uncle Sam will now try his detective skill upon the illicit distiller. As he has sharp eyes and a long arm, and is backed by drastic laws, the lot of the swipes maker and the okolehao man will not be a happy one.

The San Francisco Chamber of Commerce favors a private cable to Hawaii, and well it may. The private cable is ready to build. As for a public cable, it may be as long in coming as the Nicaragua canal.

It appears from Bishop Wilcox's open letter, published elsewhere, that the American House of Bishops asked for his resignation. This news was withheld from the press at the time. It is of a character to increase the hope that after April 1st a way will be found to remove the last vestige of the Anglican bequest of trouble and enable the great majority of the Episcopahans here to worship without unpleasant reminders of a dark past.

The fight of the press for freedom of utterance began before the time of Judge Jeffries in the earliest days of type. It has been won over and over again, and its victory is incorporated in the organic law of this republic. Article I of the amendments saying, "Congress shall make no law abridging the freedom of speech or of the press. That is the spirit of republican institutions, and by living up to the opportunities it gives an honest and fearless press has helped preserve all the institutions of liberty."

The decision not to give any more special flat rates would seem to indicate that, in the recent past, the electric light company has been playing favorites. A letter which lately came to our notice stopped a special rate which was under \$4 and by applying the legal flat rate, raised it to over \$5. The equalization of the scale of payment, which is now ordered, is fair to consumers, although it achieves no saving to those who have been paying all the traffic would bear. Their consolation is that others will have to do the same.

The attempt to convince the Governor that an extra session is needed to insure the repair of storm damage on Hawaii, is worthy of its source. How the Home Rule Legislature, with a kahuna bill yet to pass, with the act to repeal the quarantine laws of the United States still on the calendar, and with the first claims to pay, could find time and money to apply to the problem of road building in Hawaii, is a puzzling question. Probably, if the Legislature did anything in the matter, it would be to pass a county bill giving Hawaii the chance to mend its own highways out of such monies as a local Home Rule road board might wish to spare from its salaries and perquisites.

CONTEMPT OF COURT.

One of the crying evils of the day in the United States, is the uncertainty of the punishment of crime. The growing tendency of the courts to release undoubted violators of law on technicalities so finny as to be incomprehensible to the intelligent lay mind has brought the administration of justice into such disrepute that in certain portions thereof the people no longer expect that an admitted criminal will be punished provided he has money enough to pay lawyers. This uncertainty or rather, the almost certainty that the violator of law will not be punished or will be inadequately punished, is more responsible for the law and lawlessness than any other one thing. When people expect to be sure that the law will be enforced, the law, the may laws, the may laws will take the law into the law books.

Until recently Hawaii has known but little of this kind of justice. The criminal side of the law has been prompt, reasonably certain and rigid. It has been the law of the land. Since the number of judges, Henchey and their wives, however, the judges of the Territorial Legislature, of which he has been a member, have been appointed, the law has been changed. Some of the laws have indeed been strengthened, others have been relaxed, others have been repealed, others have been enacted, others have been properly defined. They probably were, but the result of the technical defences adopted by the First Circuit Court, the two judges, sitting and a distinct majority, in the orderly conduct of public trials.

The Advertiser has noted the tendency with concern and has tried to call public notice thereto both pictorially and by letter press. The latest case of the kind to call the attention of this paper has been properly defined. They probably were, but the result of the technical defences adopted by the First Circuit Court, the two judges, sitting and a distinct majority, in the orderly conduct of public trials.

There was no session of the Executive Council yesterday.

Arthur Wyman, late steward of the Pacific Club, entered yesterday upon his new duties as steward of the Hawaiian Hotel.

The grand jury reported four indictments yesterday and returned four cases. A final report will probably be made today, as the term ends tomorrow.

of one McCarthy, who was charged with having severely beaten and bitten his wife. He was indicted and convicted therefore, by a jury. After conviction he was released by Judge Gear on technical reasoning that appeared to the court to be utterly insufficient. This charge we believe to be against law, and calculated to bring the administration of justice into contempt and disrepute. In the exercise of the functions of an independent public journal, this belief was expressed in a cartoon portraying Judge Gear bestowing a blessing upon a man in the act of biting a woman's ear.

This cartoon was decided upon immediately after the decision of Judge Gear, and orders were then given for its production. The publication was delayed for lack of space until Wednesday morning last. For this publication the editor of this paper has been cited for contempt of court and sentenced by Judge Gear to thirty days imprisonment in Oahu jail, upon the ground that it is disrespectful to him, and also because it relates to a matter now pending.

As a matter of fact, the prosecuting authorities brought another charge against McCarthy, involving the same acts on his part, after he was discharged by Judge Gear. Although the court notes of the paper referred to this, the pendency of this new charge was unknown to the editor of this paper at the time of the publication of the cartoon in question, the matter not having been drawn to his notice.

The Advertiser understands the correct interpretation of the law of contempt of court in Hawaii to be, that no publication in a newspaper, of any proceedings of a court, or of any criticism or comment thereon is contempt of court. Nevertheless, had the editor known of the pendency of this new charge, based on the same state of facts, he would have withheld the publication of this cartoon until the same was disposed of. As it is, he is advised by legal counsel, and claims that the publication of the cartoon in question does not constitute contempt of court. A writ of habeas corpus has been issued by the Supreme Court, which will bring the whole question up for review before that tribunal. Meanwhile, Mr. Smith has been released from custody on bail.

WORLD AMERICANIZATION.

William T. Stead, an editor who says things without much regard to conventional opinion at home, is telling England that she must become a part of the "United States of the English-speaking world," or dwindle to another Belgium. In an article on "The Americanization of the World," he says:

"The advent of the United States of America as the greatest of world-powers is the greatest political, social, and commercial phenomenon of our times. It is only when we look at the manifold manifestations of the exuberant energy of the United States, and the world-wide influence which they are exerting upon the world in general, and the British empire in particular, that we realize how comparatively insignificant are all the other events of our time."

After a rapid survey of the strides American ideals have made in every department of science, art and religion the world over, Mr. Stead answers the question, "What is the secret of American success?" in part as follows:

"American success may be explained in many ways. A young and vigorous race has been let loose among the innumerable treasures of a virgin continent. Into that race there has been poured in lavish profusion the vital energies of many other races chosen by a process of natural selection which eliminated the weaker, the more timid, the less adventurous spirits. This great amalgam of heterogeneous energies constitutes a new composite race, which found itself free to face all the problems of the universe without any of the restraints of prejudices, traditions, or old-established institutions which encumber the nations of the Old World. Americans had no swaddling clothes to cast. They sprang into life like Minerva from the brain of Jove without any need to rid themselves of the garments of infancy. They had also the immense advantage of an atmosphere which in many parts of the continent was a perpetual exhilaration. All these causes contribute to American success. They belong to the Americans as an inalienable possession, nor can we by any possibility hope to share them. They are as inseparable from the continent of America as the Falls of Niagara or the Mississippi Valley."

The writer further discovers three American secrets which he deems capable of profitable export to England. He imputes them as education, increased incentives to production, and democracy. In each of these respects America surpasses England, the latter taking the lead only in municipal government. These considerations bring Mr. Stead to his proposed merging of the two great branches of the English-speaking race. He says:

There lies before the people of Great Britain a choice of two alternatives. If they decide to merge the existence of the British empire in the United States of the English-speaking world, they may continue for all time to be an integral part of the greatest of all world powers, supreme on sea and unassisted land, permanently delivered from all fear of hostile attack, and enjoying irresistible influence in all parts of this planet. That is one alternative. The other is the acceptance of our suzerainty by the United States as the center of gravity in the English-speaking world, the loss by one of our great colonies, and our ultimate reduction to the status of an English-speaking Belgium.

Henry Devoll, the kamaaina who was crushed on Tuesday while moving his house, situated near the marine railway, succumbed to his injuries in the Queen's Hospital yesterday. He was 83 years old.

The Nauau, which arrived from Hilo Honokua and Kukuhale yesterday morning, was detained in Hilo harbor from March 1 to March 10, on account of the bad weather outside. Captain Peterson reported the worst weather in his experience along the coasts of Hawaii.

Last night Ah Sing and Ah Cheong became involved in a dispute over cards in a house near the Chinese Theater, and the former hit Ah Cheong over the head with a hammer, inflicting a nasty wound which was dressed at the Queen's Hospital. Both men are under arrest.

Marston Campbell, accompanied by Miss Campbell and Master Campbell, returned on the Peru from San Francisco. Mr. Campbell paid a visit of ten days to his aged father. He says that when he left San Francisco, Hawaii had received nothing in the appropriate measures passed by Congress.

One of the passengers in the Peking yesterday was W. T. Summers, who has been here for the past month, the representative in part of the Anglo-Californian Bank, the man who was slated for the cashiership, in the event of the success of the San Francisco people securing representation in the management of the affairs of the institution. It was rumored yesterday that Mr. Summers had in his pocket a statement of the case prepared by the attorneys of the protesting stockholders, which he will carry on to Washington, and present to the officials of the Treasury Department.

There is some gossip on the streets that Judge A. S. Humphreys has made overtures to members of each faction in the affairs of the bank, offering the votes which he controls under proxy from Mrs. A. Fong, in return for a promise that he is to be made a director of the bank. It is understood that the holdings of each side are so nearly even that the share in Humphreys' control constitute a balance of power, and that the jurist is anxious to secure advantage of his holdings, even if they are in his possession only through a proxy.

Neither side will make any statements concerning their position, and it is understood that there will be no move until there has been some return from the Capital. Mr. Summers is not expected to return for six weeks.

A record probability of \$200,000 was stated last night, to be offered today for information which will tend to clear up the mystery of the unknown man whose body was found floating in the harbor, and bring to justice his killer.

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HUMPHREYS FINDS SMITH GUILTY OF CONTEMPT

(Continued from page 1.)

1888, see chapter 42, Laws of 1888, which provides, section 1, that "the publication of the proceedings before any court or judge shall not be deemed to be contempt, nor shall such publication be punishable for contempt." Section 2, "Constructive contempt shall not be punishable as such."

We are of the opinion that section 1 and section 2 of the Act of 1888 must be construed together under the familiar principle of law that statutes in pari materia must be construed as a whole. The constructive contempt which are declared not to be punishable as such in section 2 of the Act of 1888 manifestly refers to section 1 of the same act, which declares that the publication of the proceedings before any court shall not be punishable as contempt.

The right then to publish proceedings of a court—truthful and fair proceedings—the truthful and fair report of the proceedings of the court, substantially accurate reports, is a right which is expressly given to the citizen by the laws of this Territory, and it is a right which this court cannot impinge upon even if it were so disposed. But this right is limited to a substantial accurate publication of the proceedings and where the publication does not consist or purport to consist of a publication of the proceedings, but consists of invention and of falsehood calculated to bring the courts into odium, hatred, ridicule and contempt, thereby embarrassing the influence of the courts, obstructing and impeding, embarrassing and hindering the administration of justice, it is a contempt and punishable as such under our laws.

Now, in the State against the Bee Publishing Company, Lawyers' Reports Annotated, volume 50, page 197, it appears that the publication was made with reference to a pending case. The editor of the paper was cited to show cause in that proceeding why he should not be dealt with as and for a contempt of court. He appeared in court by counsel and defended the action against him upon the grounds that "no disrespect to the court or to any member of the court was intended; that the case was in court and undetermined, for it appears that the attorney for respondents brought his brief to Mr. Rosewater's office, and that the article headed 'Worthy of Serious Consideration,' immediately followed a meeting between the editor and the lawyer.

The defendant in this case has not taken the stand. He personally has not denied under his corporate oath in the vision of this court that he had no knowledge of the pendency of the case of the Territory of Hawaii against McCarthy. The copy of his paper which contains the contemptuous cartoon in question also contains, in another column, a notice of the fact that this case is pending, and that a jury had been sworn in the cause for the purpose of trying it.

The first and third defenses are puerile; they amount to a denial that the defendant intended to violate the law. Under the conceding facts the course pursued by him was indefensible. His conduct is not susceptible of an innocent or honorable construction. The statute declares that any wilful attempt to obstruct the proceedings or hinder the due administration of justice in any suit, proceedings, or process pending before any court shall constitute a criminal contempt and be punished as such.

This statute is merely declaratory of the law as it has existed for hundreds of years. It is a legislative recognition of the authority of the courts to deal in a summary manner with persons who do any wanton, deliberate or intentional act calculated to embarrass them in the discharge of their important duties. In the history of American jurisprudence there can be found no case in which this power has been exercised by a court of final jurisdiction. Indeed, such courts have not often called publishers to account for constructive contempt, because it has rarely happened that a respectable public journal wielded any considerable influence has deliberately employed outlaw methods in attempting to control judicial action.

Cases of this kind originating in the lower courts are very numerous. We will not take the time to cite them or any of them. But as was said by the Supreme Court of Iowa in the case of Field against Thornell, 106 Iowa, page 15, it seldom happens that an honorable journalist so far forgets his self respect as to trespass upon the rights of the judiciary, or to seek to control or improperly influence its conclusions. We have, of course, no desire to restrain in the slightest degree the freedom of the press, or to maintain the dignity of the court by inflicting penalties on those who may assail us with defamatory and malicious publications. Our decisions and all our official actions are public property, and the press and people have the undoubted right to comment on them, and criticize them and censure them as they see fit. Judicial officers, like other public servants, must answer for their official actions before the chancery of public opinion; they must make good their claims to popular esteem by excellence and by virtue, by faithful and efficient service, and by righteous conduct. But while we concede to the press the right to criticize freely our decisions when made, we deny to any individual or to any class of men a right to subject us to any form of coercion with the view of affecting our judgment in a pending case. In the Iowa case above cited it is said: "Courts are constantly passing on questions affecting the life and liberty of the citizen as well as the rights of property, and the freedom of the judiciary to investigate and decide, is quite as important to the well being of society as the freedom of the press. 'Men,' said one who knew them well, 'are flesh and blood, and apprehensive.' Few, if any, are unmoved by the clamor of the multitude. Various motives, of course, conspire to make people deny and even to disbelieve from themselves the fact that they are amenable in any degree to the force of popular opinion. But it is folly to deceive ourselves, and it is futile to attempt to deceive others. Threats of public clamor have before now swayed the judgments and fixed the purposes of resolute men, and it will be well to remember that what has happened may occur again. Men have in the

past yielded to the demands of an angry populace, and it is quite possible that they may yield again. Moral fiber is not stronger now than it ever was before. Courts are charged with the solemn, sacred and high function of administering justice, and it is their duty, not only to give to every suitor his demandable right, but to give him assurance that no banned and hostile influence shall operate against him while his cause is under consideration before the court and before the jury. A litigant is entitled not only to a just decision, but to a decision altogether free from coercion or suspicion of coercion. Nothing else will satisfy him, nothing less can fill the measure of his expectations. He has no standard with which to gauge judicial firmness; and if the court has been exposed to influences calculated, as in the McCarthy case, to tell against him, he will not know whether an adverse decision is the voice of the law or the cry of a cowardly and brutal editor.

Our views upon this matter are well expressed in the following excerpt from the opinion of Judge Lawrence in the People against Wilson, 64 Illinois, page 195: "A court will, of course, endeavor to remain wholly uninfluenced and unprejudiced by publications like that under consideration, but will the community believe that it was able to do so? Can it even be certain in regard to itself? Can men always be certain of their mental power? A timid man might be influenced to yield, while a combative man would be driven in the opposite direction. While the actual influences are on one side or the other, so far as it is felt at all, it becomes dangerous to the administration of justice. Even if a court is happily composed of men of mature years and of such firm and equal temper that they remain wholly uninfluenced in either direction, nevertheless, a disturbing influence has been thrown into the counsel chamber, which it is the wise policy of the law to exclude." Equally pertinent are the remarks of Judge Elliott, in People ex rel. Connor vs. Stapleton, 18 Colorado, 568. Judges are human; they are possessed of human feelings, and when accusations are publicly made as by a newspaper article charging them directly or indirectly with dishonorable conduct in a case pending before them and about to be determined, it is idle to say that they need not be embarrassed in their consideration and determination of such cause. They will inevitably suffer more or less embarrassment in the discharge of their duties and the administration of public justice, which order is based upon an order to show cause why petitioner should not be adjudged guilty of contempt and petitioner's return thereto, and the proceedings had therein and before said Circuit Court.

(4) That your petitioner claims that the said judge of the said Circuit Court had and has no right or jurisdiction to issue said order or mittimus, and that the same is illegal and void for the reasons:

I.—That the act complained of in the motion is not in law a contempt of court for which the court has power to punish this respondent.

II.—That the court can not legally punish as for contempt a publication of the nature of that in said order complained of, made in a newspaper, and not done in the immediate presence of the court.

III.—That the publication of a cartoon or picture, such as that complained of, done without knowledge by the person so publishing the same, that the case pending before the court would or might be prejudiced thereby; or without knowledge that any such case was pending, is not contempt of court and cannot be punished as such.

IV.—Under the statutes of the Territory of Hawaii no publication out of court in relation to the court or to any of its members amounts to contempt, and the same cannot be punished as such.

V.—That the return and answer filed herein, and the proceedings had thereunder, fully show that the defendant fully purged himself of any alleged contempt, and that no such contempt was committed.

VI.—That the said order or mittimus is in violation of the constitutional rights guaranteeing and providing for the freedom of the press.

VII.—That if said act complained of was contempt of court whatsoever, the same was merely a constructive contempt, and not punishable by the Circuit Court.

VIII.—That the record of proceedings shows that said proceedings were illegal and irregular.

IX.—All of which said claims appear more fully in the order to show cause, the affidavits attached thereto, the petitioner's motion to discharge the rule and answer and return made by this petitioner, and in the proceedings had before said Circuit Judge upon which the said order or mittimus is based, and the proceedings had in connection therewith to which said order to show cause, motion, return and proceedings now on file in the said Circuit Court, your petitioner asks leave to refer for greater certainty and make a part hereof, and a copy of which order to show cause and affidavit in support thereof, and of petitioner's motion to discharge the rule and answer and return is hereto attached and made a part hereof.

(5) That your petitioner has been unable to obtain a copy of said order, warrant or mittimus under which he believes he is held, and asks leave when he can obtain the same to attach thereto and make them a part hereof.

Therefore, your petitioner prays that a writ of habeas corpus forthwith issue out of this court directed to the said A. M. Brown requiring him to produce the body of the said Walter G. Smith before this court at such day and hour as in said order may be set forth and that upon due investigation by the honorable court of the matters and things hereinbefore set forth and properly appertaining to the subject matter of this petition, said Walter G. Smith may be discharged and freed from said restriction and imprisonment and that pending the hearing of this petition your petitioner may be admitted to bail.

WALTER G. SMITH
After reading the affidavit and accompanying papers carefully, the Chief Justice granted the petition, and gave the petitioner leave to add the mittimus to the record, when they should be given a copy. The writ was made returnable April 21st, and bond was fixed at \$500. The following is the order made by Judge Gear upon which Sheriff Brown immediately released Mr. Smith.

IN THE SUPREME COURT OF THE TERRITORY OF HAWAII,
In re Petition of Walter G. Smith, for a Writ of Habeas Corpus.
The Territory of Hawaii to A. M. Brown, greeting:

We command you that you have and produce before our Supreme Court of the Territory of Hawaii at the Court-house at Honolulu, on Monday, the 21st

of April, 1902, at 10 o'clock a.m., the body of Walter G. Smith who is unjustly imprisoned and restrained of his liberty, as it is said, and then and there to do what shall be ordered concerning him in his behalf, and have you there this writ with your doings thereon, and that further pending the hearing of this cause, admit the said W. G. Smith to bail in the sum of \$500.

Witness the Honorable W. F. FEAR, Chief Justice of our Supreme Court, dated at Honolulu this 12th day of March, 1902.

W. F. FEAR,
Chief Justice of the Supreme Court,
Territory of Hawaii.

NEW JURY IS DRAWN

McCarthy Case Again on Trial.

The trial of the McCarthy case was begun before Judge Gear yesterday afternoon. At the opening of court the withdrawal of a juror from the first panel and mistrial was declared.

Deputy Attorney General Doherty insisted upon a trial for McCarthy at this term of court, and the court thereupon ordered a special venue for 25 jurors. It was 3 o'clock when Bailiff Ellis had succeeded in corralling a sufficient number of men, but the jury was not difficult to secure. The following is the jury as finally impaneled:

H. A. Wilder, N. E. G. Jackson, R. Duncan, D. L. Austin, J. M. Lovay, J. H. Worrall, Louis Singer, W. H. Edwards, W. Broady, W. Roland, W. W. Diamond, and A. L. Spule.

2. That the cause or pretense of such imprisonment or restriction according to the knowledge and belief of your petitioner is that the said A. M. Brown claims to have and to be acting under an order of arrest and mittimus issued by George D. Gear, judge of the First Circuit Court of the said Territory.

3. That the said order or mittimus is based upon the warrant or order by said judge that your petitioner is in contempt of court in publishing, printing and circulating a statement of and concerning the said judge of the Circuit Court, and the cartoon or picture with reference to a cause now pending and undetermined in the Circuit Court, to wit, the case of the Territory of Hawaii against William McCarthy, and which said statement and publication and picture or cartoon is well calculated to prejudice and will prejudice the minds of the jury sworn to try the issues, and hinder, obstruct and prevent the court and jury in the discharge of their duties and the administration of public justice, which order is based upon an order to show cause why petitioner should not be adjudged guilty of contempt and petitioner's return thereto, and the proceedings had therein and before said Circuit Court.

4. That your petitioner claims that the said judge of the said Circuit Court had and has no right or jurisdiction to issue said order or mittimus, and that the same is illegal and void for the reasons:

1.—That the act complained of in the motion is not in law a contempt of court for which the court has power to punish this respondent.

II.—That the court can not legally punish as for contempt a publication of the nature of that in said order complained of, made in a newspaper, and not done in the immediate presence of the court.

III.—That the publication of a cartoon or picture, such as that complained of, done without knowledge by the person so publishing the same, that the case pending before the court would or might be prejudiced thereby; or without knowledge that any such case was pending, is not contempt of court and cannot be punished as such.

IV.—Under the statutes of the Territory of Hawaii no publication out of court in relation to the court or to any of its members amounts to contempt, and the same cannot be punished as such.

V.—That the return and answer filed herein, and the proceedings had thereunder, fully show that the defendant fully purged himself of any alleged contempt, and that no such contempt was committed.

VI.—That the said order or mittimus is in violation of the constitutional rights guaranteeing and providing for the freedom of the press.

VII.—That if said act complained of was contempt of court whatsoever, the same was merely a constructive contempt, and not punishable by the Circuit Court.

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IX.—All of which said claims appear more fully in the order to show cause, the affidavits attached thereto, the petitioner's motion to discharge the rule and answer and return made by this petitioner, and in the proceedings had before said Circuit Judge upon which the said order or mittimus is based, and the proceedings had in connection therewith to which said order to show cause, motion, return and proceedings now on file in the said Circuit Court, your petitioner asks leave to refer for greater certainty and make a part hereof.

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The Territory of Hawaii to A. M. Brown, greeting:

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TICKETS IN DEMAND BY SOCIETY FOLK

With a blaze of society glory, won by earnest and consistent work, the season of the Oahu Polo Club will close on Saturday after a game which promises to draw an immense crowd to Kapiolani Park. The game is for the benefit of the McKinley Memorial fund, and from the way the tickets are going the attendance will be one which will break the records.

The teams have been hard at work for the game, and if practice counts there should be such play as will be worth the attention of any devotee of the sport. The members have been at work in the early morning and there is little else to be said than that there has been such a fine tuning up of men and ponies as will make the play fast, at the very least. The ponies are getting into the best of shape, though there was one mishap to the red team.

In the disqualification of one of the ponies of Shingle, an animal which classes as one of the very best ponies in the league.

The band will be on hand at 3:30 o'clock.

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The officials of the day will be S. E. Damon, umpire; Albert Waterhouse and C. W. Pickery, referees; J. P. Erdman and F. T. P. Waterhouse, linesmen; Ernest A. Scott-Smith, timekeeper.

While these gentlemen will have to do with the game proper, there will be a reception committee, which will include every member of the club, and which will devote its time to the placing of visitors, where they will have the very best view of the field.

A souvenir program, with sketches by Yardley and Dunn, will be distributed, and in addition there will be ribbons of the colors of the opposing teams, red and blue, which will have a legend setting forth the occasion for the game, and giving the names of the teams with blanks where the final score may be inserted for the purpose of keeping a record of the game.

These souvenirs will be sold for the benefit of the McKinley fund, too, and without doubt will add to the revenues of the day.

There has been a large sale of tickets by the corps of agents and at the principal stores, and there seems to be every reason to expect the presence of a crowd which will fill the park as it has not yet been filled for the purpose of witnessing a polo game.

PLAN FOR FUNERAL OF E. MACFARLANE

The remains of the late Edward C. Macfarlane will reach this city today in the Alameda, according to the information conveyed by the last steamer from the Coast. Mr. and Mrs. F. W. Macfarlane and the young widow will arrive in the ship, as well.

The present plans are that the casket shall be removed to the residence of Mr. H. R. Macfarlane, Punahoa street, although the hour at which this will take place has not been set, and will not be until the arrival of Mr. F. W. Macfarlane.

Mr. E. C. Macfarlane, at the request of his wife and his brother and sister-in-law, Mr. and Mrs. F. W. Macfarlane, became connected with the Catholic Church. The funeral, therefore, will take place from the Catholic Cathedral. The plans at present call for the services at 3:30 o'clock Sunday afternoon. These plans may be changed if the widow so desires.

All arrangements for the funeral will be in charge of Mr. J. A. Hassing, an old friend of the deceased. The list of pall-bearers has been partially prepared, but will not be completed until Mr. F. W. Macfarlane has arrived.

Mrs. E. C. Macfarlane will make her home with Mr. and Mrs. F. W. Macfarlane, at Waikiki, for the present.

AGENTS FOR THE

Royal Insurance Company of Liverpool, Alliance Assurance Company of London,

Alliance, Marine and General Assurance Co., Ltd., of London, Scottish Union National Insurance Company of Edinburgh, Wilhelm of Magdeburg General Insurance Company, Associated Assurance Co., Ltd., of Munich and Berlin.

CHAS. BREWER & CO. LTD., Honolulu.

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CHAS. BREWER & CO. LTD., Honolulu.

NEW YORK LINE

MONTHS IN MOUNTAINS

The Hardships of Two Missionary Captives.

CONSTANTINOPLE, March 2.—The following account of the captivity of Miss Stone has been obtained from reliable sources, some of the information having been secured from accomplices of the brigands. After the capture of the missionaries, near Bansko, in September last, the brigands established themselves on the Mountain of Gueltepe, in the Edelere district, Bulgaria, where the whole population were in sympathy with the enterprise.

While awaiting the result of their efforts to secure the ransom, the brigands drew their supplies from the adjacent village of Ledjuma. Feeling perfectly secure, the members of the band used to show themselves openly in Kamenica and neighboring villages. The prisoners, however, were jealously excluded.

When C. M. Dickinson, United States Consul General at Constantinople, arrived early in October last and disclosed to the authorities the whereabouts of Miss Stone's captors, the result was nearly disastrous to the prisoners. The Bulgarian government ill-advisedly pushed troops to the vicinity of Gueltepe, forcing the brigands to break off negotiations, and the band changed its quarters to Kilo. The cold weather made travel in the mountains a dreadful ordeal for Miss Stone and Mme. Tsilka, inured as they were with the latter's infant. Every change of camp occurred at midnight.

The brigands treated their captives as kindly as the circumstances permitted, but the food supply was necessarily precarious, though the ladies were given the best of the in hospitable region afforded. The captives at no time knew of their whereabouts, the brigands always telling them they were not in Bulgaria, and they were in constant fear of attack by troops, whom the friendship of the natives was not always able to prevent from coming close upon the trail of the band. An equal cause of anxiety was the baby, which it was frequently feared would die from exposure.

Not until November 2 did the American emissaries come in touch with the band, which was then established in a cave near Dubnitz; but fear of the troops forced the brigands to another flight. This was made in a blinding snowstorm, which covered the tracks of the outlaws, but caused bitter suffering to the captives. After this the brigands succeeded in completely eluding the authorities, and toward the end of November, by a long route, they succeeded in returning to their old haunts in the Edelere district. They then caused to be circulated a report that the captives were dead, and from that time managed to keep Miss Stone and Mme. Tsilka safely under cover until the actual release of the captives took place.

ROBERTS QUILTS TRUST LEADERS

NEW YORK, March 4.—Dissatisfaction with the business policy of the United States Steel Corporation, in so far as it is directed by President Chas. M. Schwab, caused the resignation today of Percival Roberts Jr. from membership on the executive committee. His withdrawal was accepted, but a successor was not named. The officials of the steel trust and other members of the executive committee endeavored not only to conceal the real reasons for the resignation, but the news was suppressed in the report of the proceedings given out for publication. Roberts has not resigned his membership in the board of directors, but it is not improbable that the present steps will be followed ultimately by his retirement from active participation in the control of the United States Steel Corporation. Roberts represented a total capitalization of \$50,000,000.

The following statement was authorized by Mr. Roberts tonight: "The reason for the step I can give only in a general way and it was this. For some time I have not agreed with Mr. Schwab regarding certain features of the policy of the corporation which he supports. I regret that I am unable to say more than to base my resignation on the comprehensive ground of failure to agree with the aims of the president of the corporation and certain phases of the policy of the executive committee. I have not resigned from the directorate. Whether or not I shall remain on the board is a question not to be discussed at present."

BOTH SIDES LOSE IN SOUTH AFRICA

LONDON, March 4.—Telegrams received here from Klerkspoor describe the attack upon and capture by the Boers, February 24th, at a point southwest of Klerkspoor of 467 British soldiers who were acting as convoy to an empty waggon train.

The third Boer attack upon the convoy was delivered from various points and was most determined. By sheer recklessness they sought to ride down and overwhelm the British defense. The British guns shelled the charging Boers, but nothing stopped their onslaught, which was delivered with unusual impetus. The convoy of mules was subjected to a heavy fire and deserted by the native drivers. The mules stampeded, putting many of the defenders temporarily out of action and causing the wildest confusion.

For two hours the British held out. They then divided and were overwhelped.

By 7 o'clock in the morning all resistance was at an end. The dead and wounded were scattered all over the field. Not until General De Wet came in person was anything like order restored. He stopped the Boers enough

in stripping the British wounded by the free use of the sjambok, but they continued the work of despoiling as soon as his back was turned.

A dispatch from Harrismith says Boer prisoners report that General De Wet was shot in the arm during the recent attempt to break through the blockhouse line held by the New Zealanders in the vicinity of Harrismith and Van Reenan.

LONDON, February 28.—Following the precedent of Lord Roberts, who announced General Janje's surrender at Paardeburg on the anniversary of the battle of Majuba Hill (February 27, 1881), Lord Kitchener selected the same anniversary to achieve a big success by a combined movement lasting two days against the Boer forces within the Harrismith and Van Reenan line of blockhouses. The Boer losses aggregate 1,000 men killed or captured, and 2,000 horses and 2,000 head of cattle fell into the hands of the British troops.

CHICAGO, February 28.—A cable to the Record-Herald from London says War Secretary Brodrick announced in the Commons today that General De Wet's son had been captured, but he failed to impart to the legislators the more surprising news that the famous General Louis Botha had also been made a prisoner and had got away again.

When Rimington's troops made a night attack at Knapdaar they captured several prisoners. Among the men taken was Botha, but the British did not recognize him.

Another force of Boers, hearing of the disaster to the main body, and that their general had been captured, menaced the British command. In the confusion of the expected attack the body of British troops that held Botha as their prisoner permitted a few of the burghers to escape, and among the number was Botha.

REPORT AGAINST PANAMA ROUTE

WASHINGTON, March 3.—At a meeting of the Senate sub-committee on Interoceanic Canals today an adverse report was ordered on the proposition of the Panama Canal Company to sell its rights and properties to the United States for \$40,000,000. This sub-committee is composed of Senators Morgan of Alabama, Pritchard of North Carolina, Mitchell of Oregon, Turner of Washington, Kittredge of South Dakota and Foster of Louisiana, all lawyers. The report states that the complications in the way of the transfer of the title to the United States are insurmountable.

Pritchard, of the sub-committee, was absent, and Kittredge differed from his colleagues and reserved the right to make a minority report. The majority of the full committee, as is well known, favor the Nicaragua route, but the advocates of the Panama route, under the lead of Hanne, will continue the fight in the committee and in the Senate, where there is undoubtedly a majority in favor of the Panama route.

There is no doubt that the recent news from Paris that Colombia would insist that its assent should be obtained before any steps could be taken by the Panama Company to transfer its rights to the United States, had a direct effect upon the deliberations of the sub-committee, and has also influenced the opinions of Senators generally and added in every way to the difficulty of bringing the United States and the Panama Company to the point of negotiations.

NEW YORK, March 3.—A cable to the Sun from Colon says: According to advices received here from Paris, an Anglo-French syndicate has offered to pay 4,000,000,000 francs (twice the American offer) for the Panama canal. It is added that though it is the purpose of the syndicate to complete the canal with English money principally, the enterprise will remain a French one.

SERVIAN REBEL MEETS HIS DEATH

BELGRADE, Serbia, March 5.—An extraordinary attempt to start a revolution was made this morning at the frontier town of Shabab by a raid under the leadership of Alavantics, a relative of Prince Karageorgevitch, the pretender to the Serbian throne. The only result was that Alavantics was killed and his adherents were arrested.

Alavantics, with a handful of followers, arrived at Shabab from Mitrovac, wearing the uniform of a general in the Serbian army, and called to the frontier guard to follow him. The latter not suspecting that anything was afoot accompanied the general to the town hall, where Alavantics ordered the men of the fire department to join him. This motley procession proceeded to the gendarmerie barracks, where Alavantics paraded the gendarmes. Two of the latter, however, whose suspicions were aroused, escaped and apprised their commander, Captain Nikolic.

The latter, when he arrived on the scene, called Alavantics to produce some document as authority for his actions, whereupon the would-be revolutionist leader fired a revolver at Captain Nikolic, slightly wounding him. Nikolic promptly shot and killed Alavantics, whose followers were then arrested.

RIFLES FOR INSURGENTS

MANILA PAPER ALLEGES THAT LANDING HAS BEEN EFF-ECTED

VICTORIA, B. C., March 5.—The Manila American, copies of which have just been received, says it has very good reason for believing that recently a vessel flying the German flag landed Mauer rifles on the coast of Batangas for the use of the insurgents. It is said that the shipments comprised 50 cases or about 1,000 rifles, with ammunition.

The vessel was seen hovering about the coast of Mindoro for several days, finally dropped up to Batangas almost in the harbor of Manila and landed. At the same time a vessel of arms was landed. The description of these weapons the American says can be readily imagined. The

CARTER HAS NOT YET REACHED THE CAPITAL

Storm Ravages Prevent the Arrival of the Hawaiian Delegate, But Interview is Arranged.

(Special to the Advertiser.)

WASHINGTON, D. C., Feb. 28.—For four days people in Washington have been looking for the arrival of George R. Carter. His journey here from Honolulu has been well advertised in the local newspapers, ... the status of political affairs ... the island from different viewpoints has been heralded in print here in anticipation of Mr. Carter's coming. Even his picture has been published, so that there are scores of people who would recognize the bearer of advice to President Roosevelt when he arrives.

This is Thursday, and last Tuesday Mr. William Haywood had a telegram from Mr. Carter in New York, asking if he could communicate with him by long distance telephone. Mr. Haywood had no idea what sort of a communication Mr. Carter wanted to make. As the telephone wires were out of order from the severe storm of rain and sleet that forthwith put the telegraph lines also out of commission, Mr. Haywood telephoned back to ask if what he wished to say was sufficiently important to warrant him (Haywood) making a trip to New York. No answer was received and nothing further has been heard to date of Mr. Carter's whereabouts. The only communication with New York, except for messages of extreme importance that are sent by way of Chicago or by some other round-about route, is by mail.

Miss Cordelia Carter has been visiting the Misses Hartwell on Sixteenth street, but left for Boston a day or two ago, after telegraphing in vain to locate her brother. It is thought he may have gone on there to visit her, as this has been a very busy week for the President and there would be little opportunity for an interview of much length, regarding Hawaii. Prince Henry has been here two days of the week. President Roosevelt has been absent a little over one day, to the launching of the Meteor, the German Emperor's yacht, and then on yesterday much of his time was occupied with the McKinley Memorial exercises at the Capitol. Prince Henry stays here a day or two yet, and accordingly the President is devoting considerable of his time to the royal visitor.

It was stated at the White House today that Mr. Carter would have an interview with President Roosevelt early next week, and it is understood that a communication has been received there from him to this effect. The announcement from San Francisco, as soon as Mr. Carter landed, that he proposed to advocate the selection of Mr. H. P. Baldwin as governor, has awakened considerable local interest. The notable thing about it, however, is that advices by telegraph are understood to have reached here before the full committee will be given before it is reported. Mr. Haywood stated today that he was not favoring the requests of either of the corporations that seek the franchise in Hawaii. "I regard the land laws of Hawaii as the best suited to the conditions existing there," he continued, "and no changes should be made without the full knowledge and consent of the people, who have framed them to meet such conditions." Mr. Haywood added that if any changes were made to permit the construction of ditches it should be in the shape of additional authority to the Territorial officials, who have the enforcement of the land law in their hands.

Delegate Wilcox has introduced a bill of his own "to fix the term of office of senators elected at the first general election of the Territory of Hawaii; also the apportionment of those to be elected at the general election in November, 1904." The full text of the bill is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the fifteen senators elected at the first general election held in the Territory of Hawaii on November 6th, 1900, shall each hold office for the term of six years from the date of such election.

Section 2. That at the general election in November, 1904, fifteen qualified persons shall be elected as senators, eight of whom, who have received the highest number of votes cast, shall each hold office for the term of four years from the date of such election, and the rest, who shall have received the lowest number of votes cast, shall each hold office for the term of two years only from the date of such election.

Section 3. That at the general election in November, 1904, those senators who shall have received the lowest number of votes cast shall be apportioned as follows: That two from the First Senatorial District, one from the Second Senatorial District, three from the Third Senatorial District, and one from the Fourth Senatorial District, shall each hold office as Senators for each of those districts for the term of two years only from the date of such election.

Land Commissioner Boyd is still in Washington, but Congress and

Committee on the Pacific

before the Committee on the Pacific

IS CARTOON CONTEMPT?

Judge Gear Cites Advertiser's Editor.

(From Thursday's Daily.)

The publication of a cartoon in yesterday's Advertiser is held by Judge Gear to be contempt, and acting upon the motion of Attorney Bitting, he issued a citation for the appearance of Walter G. Smith, as editor, in court at 9 o'clock this morning. The citation was issued shortly before 1 o'clock yesterday, returnable at 3, but service was not had in time for an appearance in court at that hour, and continuance was then granted. In the meantime the case of William McCarthy, which is now on trial, was continued, Bitting in his motion asking that the jury now sitting on the case be discharged, as having been prejudiced.

Upon the opening of court yesterday morning, Mr. Bitting presented a motion for continuance, based upon the following grounds:

"That this cause is set for trial before a jury which has been duly impanelled and sworn to try said cause upon the 12th day of March, A. D. 1902, and that this cause is now pending and in progress of trial in this court.

"That including the allegation in the first paragraph hereof contained and notwithstanding the prohibition of the law, on the 12th day of March, A. D. 1902, and while this cause is pending and actually on trial in this court, a certain newspaper published in Honolulu, Island of Oahu, Territory of Hawaii, and within this jurisdiction, called and headed as 'The Pacific Commercial Advertiser,' published a ridiculous, absurd, libelous, and unlawful cartoon, meant and intended to be suggestive and contemptuous of this honorable judge before whom this trial is pending, and tending and intending to prejudice the public respecting the trial of said cause and particularly against the honorable judge now presiding over the trial of this cause, and to obstruct and pervert the administration of justice; and,

"That said publication is a knowing and malicious invention against the court, and was intended and is intended to bring said court into ridicule, contempt, discredit and odium."

Judge Gear took the view that the trial of the case having been started, the cartoon was contempt, and he quoted from the penal code relating to contempt of court. He said further:

"Personally, I care nothing about the articles and pictures. They are a source of amusement to me. I took this oath to administer justice to the best of my ability and knowledge of law, and it is a matter of indifference to me how many untrue animadversions upon me are made. In the present instance McCarthy was released because there is no such crime as any harm in the Hawaiian statutes. He had been sentenced he could have been released on habeas corpus. There is no question about that, and if there is any one in Oahu jail serving for mayhem now, he may be released on habeas corpus. The decision was not only mine, but that of Judge Robinson sitting with me."

The court stated further that he had been misrepresented by the papers in their publishing that he had released the Williams boys, when in fact they had been acquitted by a jury. "Time after time," said the court, "the newspapers published comments upon, and wrongful reports of, cases in this court, in total disregard of the penal laws or of decency and right. This court administers law to the best of its ability and knowledge, and if there are errors, they are errors of judgment to which all courts are liable."

Judge Gear continued the matter until 11 o'clock in order to give Bitting time to prepare the necessary affidavits and the jury was excused until 2 o'clock. Bitting evidently didn't believe the matter of immediate importance, for it was 12 o'clock before he finally leisurely walked into court with the necessary papers, though Judge Gear had been impatiently waiting on the bench for nearly an hour.

Judge Robinson and Judge Humphreys appeared with Judge Gear upon the bench when the matter was called up for the second time at 12 o'clock. Bitting began to apologize for keeping the court waiting, when Gear interrupted, telling him to present his affidavit.

Mr. Bitting then began to read the affidavit reciting the trial of the first case against McCarthy, the conviction by a jury, and the subsequent action of Judge Gear in releasing him, on the ground that the crime of mayhem had no place in the Hawaiian statutes. The affidavit was based upon section 257 of the Penal Code of 1897. The affidavit closed with following specific charge:

"That on this 12th day of March, A. D. 1902, at Honolulu, Island of Oahu, Territory of Hawaii, and within the jurisdiction of this Honorable Court, the said Pacific Commercial Advertiser, a newspaper printed, published and of general circulation within said Honolulu, the said Walter G. Smith, editor, and its agents, officers, servants and employees did make and publish for circulation, an insulting, contemptuous, contumelious, disrespectful cartoon or picture, intending and meaning thereby to throw disrespect upon the Honorable George D. Gear, one of the judges of said court, and the presiding judge at both of the trials hereinbefore named, and in said cartoon or picture intending to and attempting to represent the former action in a ludicrous and disgraceful manner of him the said Honorable George D. Gear in his official and judicial capacity, as well as to prejudice the case of said defendant in the minds of the public, and that by reason of said insulting, contemptuous, contumelious and disrespectful picture or cartoon, and intending to publish animadversions on the evidence or proceedings in a pending trial tending to prejudice the public respecting the same, and to obstruct and prevent the administration of justice; and by knowingly publishing an unfair report of the proceedings of the court, and malicious invective against the court and jury, tending to bring such court and jury, and the administration of justice into ridicule,

contempt, discredit and odium, did then and there and thereby commit a contempt of court."

"I will issue the order; the court will issue the order, returnable forthwith," said Judge Gear.

The matter was thought to be closed, when Judge Humphreys remarked:

"As First Judge of the First Circuit, I was invited by Judge Gear to sit with him during the hearing of the matter pending, which I deem to be proper. This case affords a striking instance of the attitude of the attorney general and his deputies toward the judges of the United States Courts. If the attorney general or his employees were inspired by any sense of the honor, decency or propriety of their positions, the attorney for the defendant would not be here in the capacity which he is compelled to take, owing to the attitude of the attorney general's department until he is paid for it, and must be filed ten days before the hearing of a case."

Herbert G. Middleditch has made application for license to practice law in the district courts.

The annual accounts of W. O. Smith, trustee of the estate of Achi K. Akau, were filed yesterday. The receipts were \$1,000, disbursements, \$1,061.75.

The annual accounts of W. O. Smith, guardian of the estate of Bill Bray, a minor, were filed yesterday. A balance on hand for the year is shown to be \$250.50.

The inventory of the estate of Maria L. Hoffman was filed yesterday, showing personal property amounting to \$41,011.30, and real estate valued at \$19,000.

Judge Humphreys yesterday filed a written decision denying the petition of Gladys Fisher, a minor, for permission to assign her interest in the life insurance policies of her father, Will E. Fisher, to him.

J. Fukushima has sued Morihiro for \$2,000 damages for malicious prosecution.

The Ralston Iron Works has given notice of materialman's lien for \$805.91, against J. P. Mendonca and Hawaiian Iron Fence and Monumental Company.

Judge Gear yesterday cancelled the \$5,000 bond given by J. W. Hall, and the defendant was arrested and brought into court. The bond was allowed to stand until today, and Hall ordered to get a new surety.

The following material and labor bills were filed against the Kona Sugar Company yesterday: A. E. Esser, \$15; Joseph Kisko, \$474; M. G. Norris, \$44.35; Charles Cowan, \$117.50; S. J. Stewart, \$38; Frank Guard, \$233.30; W. C. J. Ottman, \$333.50; C. D. Ray, \$28; Thomas McMillan, \$173.50; J. Phillips, \$75.

The annual accounts of the trustees of the B. P. Bishop Museum were filed yesterday for the year ending October 12, 1901, showing receipts of \$229,092.27, and expenditures of \$198,410.19, leaving a balance of \$30,682.08. The inventory shows more of the tabooed bonds, in Oahu Sugar Company—\$50,000. The entire personal property and real estate is valued at \$409,156.76.

Following cases were heard: Territory vs. Joseph Castro, E. Armitage vs. E. F. Bishop, administrator, and Mary S. Keanu vs. Kaohi.

COURT NOTES.

An amendment to the Supreme Court rule regarding transcripts of evidence was made yesterday, requiring that note of the date of furnishing transcript be noted. The transcript need not be furnished by the stenographer until he is paid for it, and must be filed ten days before the hearing of a case.

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The company reported that it was losing wires in all directions on account of the heavy snow which in some localities was followed by sleet. Between Easton and Williamsport, Pa., twenty miles of Western Union poles are down. Up to 11:30 there was no sign of improvement in the weather, the snow continuing to fall heavily.

The train service on the New York Central Railroad, which was disorganized by the floods, was further impeded by the snow. The trains from the west and north are in bad shape. No attempt was made to run the Adirondack express. Of the Chicago express, due at 10 a. m., no report had been received up to 11 o'clock. It was stalled somewhere along the line, with no means of reporting its whereabouts or condition.

PARKERSBURG, W. Va., March 5.—The central and western portions of the State are covered this morning with a heavy snowfall. It is still snowing. If the snow should melt quickly there would be cause for alarm among residents of the lowlands in the Ohio Valley.

HUNTINGTON, W. Va., March 5.—A snowstorm has been raging in southern West Virginia for twenty hours.

In the Ohio Valley snow is fourteen inches deep. In the mountainous districts it is twenty to thirty inches. All street car traffic is suspended in Ohio river towns. Railway traffic is greatly impeded.

WASHINGTON, March 5.—A combined storm of wind, snow and sleet prevailed here last night and part of today, and threatened for a time to assume serious proportions. Over an inch of snow and rain was precipitated. The forecast officials say that the storm is not sufficient to bring the Potomac again to the flood level.

YORK, Pa., March 5.—The heaviest snowstorm of the season set in here last night, and the ground is now covered to a depth of twelve inches. All trains on the Frederick division of the Pennsylvania Railroad have been anulled. Two trains were stalled on the Columbia bridge this morning. Between Hanover, Pa., and Frederick, Md., the entire road is practically drift-shut.

PITTSBURG, Pa., March 5.—The heaviest snowstorm of the winter set in about midnight, and at noon today it is still snowing. The snow is now seven inches deep, and the indications are for continued snow today and tomorrow. Street car traffic is almost at a standstill in both Pittsburgh and Allegheny, while the cars to and from the suburbs are making but few trips. The railroads are also suffering to some extent. The local telephone wires are in bad shape.

CHICAGO, Feb. 28.—Torrential rains, washouts, tornadoes in the southeast; floods, breaking of dams and ice gorges in Pennsylvania; copious and devastating rains in the Middle Atlantic States; snow blizzards in Minnesota and the Dakotas, were the reports that came in over the crippled telegraph lines. Reports of death and disaster from the South are widespread.

TELLURIDE, Col., Feb. 28.—Fourteen dead; as many more injured, and a score missing, is the result of a series of snowslides near here.

ATLANTA, Ga., Feb. 28.—Yesterday's storm spread disaster through Georgia, Alabama, Tennessee, Virginia, North and South Carolina and Florida. No trains have passed through on the Seaboard north for Atlanta in twenty-four hours. Several people were killed in cyclone. Railroad tracks at Jackson are five feet under water.

SAN FRANCISCO, March 2.—This city was practically cut off from the rest of the world last night, the storm playing havoc with telegraph and telephone wires.

PATERSON, N. J., March 2.—This city, recently swept by fire, is overwhelmed by flood. Hundreds of families have been made homeless by the overflow of the Passaic. The city is many feet under water, and one life is thus far lost.

ALLEGHENY, Pa., March 2.—The flood waters have receded after submerging much of this city, and traffic is being resumed. The damage to the city is estimated at \$1,250,000.

WHEELING, W. Va., March 2.—Wheeling is tonight in the grasp of the worst flood it has experienced since 1884. The maximum was reached to-night, 42 feet 2 inches. In all, 29,000 men are idle through mills being under water.

NEW YORK, March 2.—Not a western train entered the Grand Central station today. Not for many years have the mails been so delayed as during the last three days.

All the troops slept on board the Warren last night.

Condor Boom Found.

VICTORIA, B. C., March 4.—With the return of the steamer Queen City, arriving tonight after a rough passage from the west coast, more evidences of the loss of the Condor were received.

It is understood that two barrels of salt were found in one of the transport's boilers. This must either have been put in intentionally, or its presence is due to gross neglect on the part of the engineer's department of the vessel.

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WHARF AND WAVE.

ARRIVED.

Tuesday, March 11.
Str. Mikahala, Gregory, from Nawiliwili; J. Oloa and Hanamauhi, 6:00 a.m.
Sip. Kalulani, from Akia's landing, 12:30 p.m.
S. S. City of Peking, Smith, from the Orlon, 6 p.m.
Sir. Mauna Loa, Simerson, from Lahaina, Maalaia, Kona and Kau ports; 10 a.m.
Am. bk. Olympic, Evans, 21 days from San Francisco, 2:30 p.m.
Str. Nihau, W. Thompson, from Honokau and Kukuihaele; 12:10 p.m.
Am. schr. James H. Bruce, F. Miller, 26 days from Grays Harbor; 11 a.m.
Am. schr. King Cyrus, Johnson, 60 days from Newcastle; 12 m.

Wednesday, March 12.
S. S. Aorangi, Phillips, from Brisbane and Sydney, 7:30 p.m.
S. S. Peru, Pillsbury, from San Francisco; 2 p.m.

Str. Noeau, Pederson, from Hilo, Honokau, Waipio, Kukuihaele, Laupahoehoe and Kaanapali, at 8:30 p.m., with 3,855 bags sugar, 3 packages sundries.

Str. Ke Au Hou, Mosher, from Kilauea, at 5:40 p.m., with 3,603 bags sugar and 4 packages sundries.

Str. Iwalani, Greene, from Koloa, Elelele, Makaweli, at 2:45 a.m., with 2,750 bags sugar, 13 barrels empty bottles, 3 gasoline tanks, 24 packages sundries.

Thursday, March 13.
U. S. A. T. Egbert, from Manila; 5:30 p.m.
Schr. Charles Levi Woodbury, Harris, from Hilo; 8 a.m.
Schr. Concord, Mana, from Hilo and Paauilo; 9:30 a.m.
Schr. Ka Mol, Nipa, from Paauilo.

DEPARTED.

Tuesday, March 11.

Am. schr. W. H. Marston, Curtis, for San Francisco; 11 a.m.
Str. Waialeale, Piltz, for Waimea and Elelele; 4 p.m.

Str. James Makie, Tullett, for Anaehoi and Kilauea; 4 p.m.
Schr. Kawailani, Moses, for Koolau ports; 5 p.m.

Str. Lehua, Napaha, for Maui and Molokai ports; 5 p.m.

Br. sp. Peter Iradale, Lawrence, for Royal Roads; 7 a.m., in ballast.

Am. bk. Sonoma, Stansland, for the Sour, in ballast.

Str. Claudine, Parker, for Maui ports, 5 p.m.

Str. Kihau, Freeman, for Hilo and way ports; 12 m.

Str. W. G. Hall, S. Thompson, for Kauai ports; 5 p.m.

Wednesday, March 12.
Am. bk. Sonoma, Stansland, for the Sound in ballast; 7 a.m.

Str. Nihau, W. Thompson, for Kahuilu and Kilauea; 5 p.m.

S. S. Aorangi, Phillips, for Vancouver and Victoria; 4 p.m.

S. S. City of Peking, Smith, for San Francisco; 3 p.m.

Am. bkt. S. G. Wilder, Jackson, for San Francisco; 2 p.m.

Thursday, March 13.
S. S. Peru, Pillsbury, for the Orient and Manila; 10 a.m.
Str. Mikahala, Gregory, for Kauai ports; 5 p.m.
U. S. N. collier Alexander, Nickels, for Norfolk, Va.; 5:30 p.m.

NO MORE CATTLE FROM NEW ZEALAND

The Collector of Customs has received a decision dated February 27, from the Treasury Department, to the effect that the importation of cattle from New Zealand to the United States is prohibited. The decision says, in part:

That as Hawaii is now a part of the United States, the regulations of this Department, and of the Department of Agriculture, regarding the inspection and quarantine of imported animals, the prohibition of importation of animals, and the disinfection of the hides of neat cattle, as contained in circulars of February 16, 1900 (T. D. 22,014), June 28, 1900 (T. D. 22,316), and July 30, 1901 (T. D. 23,212), are applicable in your district.

As the Secretary of Agriculture reports that cattle diseases exist in New Zealand, the importation of cattle from that country is prohibited, and the hides of such cattle must be disinfected.

THE SERVANT QUESTION.

Do your servants rule you or do you rule your servants? The liver is one of your servants. Does it do what you want, or do you have to coax and humor it to get any service out of it? The heart is another servant, the stomach another, the kidneys are two more. Do they do your will and your work, or do you have to do their will and work for them? When a man or woman says "I can't exert myself on account of my heart," "I'd like to eat that but my stomach won't allow me," "I've got to be careful what I drink because my kidneys do not work as they ought," then the servants have the upper hand. Good service is quiet service. The best servants make no fuss but serve so quiet you don't realize you are being waited on. The organs of the body should serve like that, quietly. Liver, kidneys, heart, lungs all doing their work so easily there seems to work to do. How is it with your servants? Have you to be careful what you eat, drink or do? Then your servants are ruling you. Master them or in the end they will master you. Try the great vegetable remedy, Sagwa. If your stomach does not serve you if your kidneys are sluggish, if your liver is slow and lazy, if your heart is irregular in its action, Sagwa stops the friction and so makes the service lighter. Sagwa strengthens the servants and at the same time makes their work easier by removing obstructions from the system. A course of Sagwa will give refreshing sleep, a good appetite, a healthy body and a happy mind. That is the natural condition of every man, and Sagwa restores that condition by removing the refuse that clogs the body and prevents the proper action of its servants.

HOBBIN DRUG COMPANY, agents for Kickapoo Medicine.

Last night about 10 o'clock a native named Kaoi fell from the top of a two-story house in Bishop Lane and struck his head on a nail in the packrat. The packrat was seen to the scene and a doctor was sent for. He was sent to the hospital for admission.

The physician said the man's head was fractured and that what he had to do was to get him to the hospital as soon as possible.

VERDICT ALMOST THE SAME

Must Pay Honolulu Plantation Sum of \$102,523.

(From Wednesday's Daily.)

The jury in the second trial of the case of the United States vs. the Honolulu Plantation Company returned a verdict at 10:30 o'clock last evening assessing the value of the leasehold and improvements at \$102,523.

The finding of the jury is about \$2500 less than that given at the first trial, which was \$105,000, and which Judge Estee set aside as excessive, ordering a reduction of \$30,000, which being refused by defendant, he allowed a new trial. Notice of motion for a new trial was given both by the plaintiff and defendant, though Mr. Milverton appearing for the latter stated that the defendant's motion would hardly be pressed.

The finding of the second jury is peculiar. Upon the first trial the value of the leasehold was estimated at \$89,732 and of the improvements at \$15,208. This jury places a value of \$5000 more upon the leasehold, or \$94,000, while its estimate of the value of the improvements is but \$852, or about \$7000 less than that of the first jury. The estimate per acre upon the leasehold interest is approximately \$167, taking into account the entire 561 acres, arable and waste, while if the arable land alone is considered the estimate is \$276 per acre.

Judge Silliman opened the argument yesterday morning, and concluded at 3 o'clock, and the jury was immediately instructed. At 7 o'clock no agreement having been reached Marshal Hendry took the jury to dinner at the Hawaiian Hotel. At 9:30 o'clock an agreement was announced, but it was over an hour before the attorneys could be brought into court. The jury was first called, and the verdict then handed to Clerk Maling, who read as follows:

United States of America, District of Hawaii.—In the District Court of the United States in and for the District of Hawaii.

The United States of America, Plaintiff and Petitioner vs. the Honolulu Plantation Company, a Corporation, et al., Defendant and Respondent.

VERDICT.

We, the jury in the above entitled action, upon the issues framed in said action between the above named plaintiff and petitioner, and the Honolulu Plantation Company, a corporation, defendant and respondent above named, find the following verdict, to wit:

1. We find that the above named plaintiff and petitioner is entitled to have all the right, title, interest and estate of said the Honolulu Plantation Company, a corporation, said defendant and respondent, in and to the tract and parcel of land involved herein, and hereinafter more particularly described, condemned for the uses and purposes set out in the petition on file herein, and to take, hold and acquire said tract and parcel of land and its appurtenances in fee simple absolute, for the public uses and purposes in said petition set out.

2. We find the value of all improvements upon the property condemned in the above entitled action to be \$8,623.

3. We find the value of the property condemned in the above entitled action, to wit, the leasehold interest of said defendant, said the Honolulu Plantation Company, a corporation, in and to the tract and parcel of land condemned herein, and hereinafter more particularly described, to be \$94,000, in United States gold coin.

4. As to that part of the property condemned herein which constitutes only a portion of the larger tract, we find and assess the damages which will accrue to the portion not sought to be condemned by reason of its severance from the portion sought to be condemned, and the construction of the improvements in the manner proposed by the above named plaintiff and petitioner, to be nothing.

5. As to that part of the property condemned herein which constitutes only a portion of a larger tract, we find and assess the benefits to the portion not sought to be condemned by the construction of the improvements proposed by said plaintiff and petitioner, to be nothing.

The tract and parcel of land hereinabove in this verdict referred to is situated as follows, to wit:

In the District of Ewa, in and about the Harbor of Pearl Lochs, sometimes called Pearl Harbor, in the Island of Oahu in the Territory and District of Hawaii, in the United States of America, and is bounded and particularly described as follows:

(1) Thence east magnetic 780 feet to a point 2,542 feet to a point.

(2) Thence south 22° 30' east magnetic 2,542 feet to a point.

(3) Thence south 47° 31' west magnetic 2,232 feet to a point.

(4) Thence south 69° 04' west magnetic 676 feet to a point.

(5) Thence north 43° 42' 13" west magnetic 2,656.6 feet to a point on the shore line.

There following the shore line to the eastward and southward to the point where the railroad first meets the line Ewa or west of Puuhonua, thence following the macka or right of way of said right of way of said railroad, 1.125 miles, and to the point of beginning said tract, 1.125 miles, and

there following the right of way of

the railroad and the boundary line

between the tract and the land held

in fee simple absolute.

ROYAL Baking Powder

Makes the bread more healthful.

Safeguards the food against alum.

Alum baking powders are the greatest menaces to health of the present day.

ROYAL BAKING POWDER CO., NEW YORK.

or less.

Dated Honolulu, Hawaii, March 11, 1902.

A. BARNES, Foreman of said Jury.

Mr. Dunne rose immediately and on behalf of the government, noted exceptions on the ground that the verdict was excessive, and contrary to the evidence and instructions of the court. He gave notice of intention to file a motion for new trial. Mr. F. W. Milverton, on behalf of the Honolulu Plantation Company, also excepted to the verdict, but stated that he did so to preserve the rights of the defendant until Manager Low had been communicated with. He believed, however, that the verdict was entirely satisfactory, and that the motion for a new trial would not be made.

Judge Estee then thanked the jurymen for their earnest and careful attention and excused them for the term. The fine of \$31 imposed upon one of the jurors for being late was remitted.

THE EARLY PROCEEDINGS.

Upon the opening of court and of Judge Silliman's argument to the jury, there was a scene not down on the program. Mr. Dunne, on the day previous, had occupied his time chiefly with a denunciation of the plantation men who had testified for the defendant, and Mr. Silliman, when it came to his turn, replied in kind. He said that the United States was not building the naval station for the benefit of Hawaii, but for its own good, and for the protection of the Pacific coast.

As for the distribution of money in the Islands, Silliman said that the United States was taking away a million and a quarter in customs duties annually, and spending very little of it here.

Though loving the United States, which was his native country, he contended that it was an outrage on the part of its representatives to attempt to

condemn the Pearl Harbor land without adequate compensation.

The United States was well able to pay for it, and the people of the Territory should be treated with fairness, which he contended, had not been the general policy of the central government toward this country or its people, nor was it treating the defendant in this case properly.

Mr. Silliman was finally interrupted by the Court, with the remark that he should discuss the case and not the United States. Mr. Dunne chimed in that he couldn't sit still and hear the United States assailed in that manner. The argument finally proceeded without further interruption.

The jury was instructed, at the conclusion of Mr. Dunne's address, very much on the lines laid down in the first trial. Judge Estee described the condemned property, and the various leases by which it came into the possession of the defendant. The jury was instructed that it could not consider the "mere speculative or possible value of sugar that might be produced in the future on this land."

All improvements on the land, the Court instructed the jury, became the property of the Bishop Estate upon the termination of the lease.

Judge Estee described the condemned property, and the various leases by which it came into the possession of the defendant. The jury was instructed that it could not consider the "mere speculative or possible value of sugar that might be produced in the future on this land."

"This beats my New York record,"

sighed the sad Hawaiian singer. "In New York some one touched me for \$10 in cash, and the things I have been robbed of tonight were worth \$15."

The Hawaiian Glee Club was an attraction at the Buffalo Exposition. For

the seven months since the fair these sweet singers have been touring the country and making a good thing out of the circuit. This was to be their last show town except Los Angeles. After that the whole troupe expects to return to Hawaii, where unlocked rooms are safe and no honest man would steal his banjo.

Therefore instruct you, that in reaching a verdict you are not to consider or place any value upon said inland waters as belonging to the private party now litigating with the United States government, as far as all, though the treaty made by the Kingdom of Hawaii and the United States in 1877, by which Pearl Harbor was ceded to the United States did not in any way affect private ownership in the said waters, the said harbor those parts having no interest other than that of every citizen of the United States in the thoughts and waters of Pearl Harbor, for those waters themselves have belonged to the United States since the date of that treaty.

Therefore instruct you, that in

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